MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.828 OF 2007

Thermax Limited Petitioner
versus
Thermech Engineers & another Respondents

Mr.Vineet B. Naik i/by Doijode & Associates for petitioner.

CORAM : A.S.OKA, J.

DATE : 07th February 2007

PC :

1. Heard learned counsel for the petitioner. The petitioner is original defendant no.1. The petitioner had taken out an application dated 13th February 2006 containing following prayers:-

> "(a) The said entire affidavit in lieu of examination in chief dated 11/4/2005 may kindly be rejected.
>
> (b) Alternatively, only if this Hon'ble Court comes to the conclusion that the prayer made in prayer clause (a) above cannot be or need not be granted, then the contents of the said affidavit dated 11/4/2005, which are enumerated in para (3) in this application may kindly be struck off."

MST

The said application has been rejected by the learned Trial Judge. The order impugned is purely of interlocutory nature. No interference is called for with the said order under Article 227 of the Constitution of India. The petition is, therefore, not entertained and the same is rejected. In the event the suit is decreed against the petitioner, it will be always open to the petitioner to impugn the said order in appeal which may be preferred by the petitioner against the decree.

(A.S.OKA, J.)